

**MINUTES**

**MONTANA SENATE  
59th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON FINANCE AND CLAIMS  
HOUSE APPROPRIATIONS COMMITTEE  
JOINT MEETING**

**Call to Order:** By **CHAIRMAN MIKE COONEY**, on January 4, 2005 at  
8:00 A.M., in Room 303 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Mike Cooney, Chairman (D)  
Sen. Keith Bales (R)  
Sen. Gregory D. Barkus (R)  
Sen. John Brueggeman (R)  
Sen. John Cobb (R)  
Sen. John Esp (R)  
Sen. Steven Gallus (D)  
Sen. Ken (Kim) Hansen (D)  
Sen. Bob Hawks (D)  
Sen. Bob Keenan (R)  
Sen. Rick Laible (R)  
Sen. Lane L. Larson (D)  
Sen. Greg Lind (D)  
Sen. Don Ryan (D)  
Sen. Trudi Schmidt (D)  
Sen. Corey Stapleton (R)  
Sen. Jon Tester (D)  
Sen. Dan Weinberg (D)  
Sen. Carol Williams (D)

**Members Excused:** None.

**Members Absent:** None.

**Members Present:**

Rep. Rosalie Buzzas (D) Vice-Chair  
Rep. Tim Callahan (D)  
Rep. Eve Franklin (D)  
Rep. William 'Bill' Glaser (R)  
Rep. Ray Hawk (R)  
Rep. Verdell Jackson (R)

Rep. Joey Jayne (D)  
Rep. Carol Juneau (D)  
Rep. Christine Kaufmann (D)  
Rep. Gary Matthews (D)  
Rep. Walter McNutt (R)  
Rep. Penny Morgan (R)  
Rep. John L. Musgrove (D)  
Rep. Rick Ripley (R)  
Rep. Jon Sesso (D)  
Rep. John Sinrud (R) Vice-Chair  
Rep. Janna Taylor (R)  
Rep. Jack Wells (R)  
Rep. John E. Witt (R) Chairman

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Prudence Gildroy, Committee Secretary  
Taryn Purdy, Legislative Branch

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted:

Executive Action:

**CHAIRMAN MIKE COONEY** reconvened the meeting and reviewed the agenda.

**David Ewer, Budget Director,** categorized the Schweitzer budget changes.

**EXHIBIT**(fcs02a01)

He stated the belief that no matter how a quality education is defined they will meet the spirit of quality. They are requesting resources for economic development. Strengthening families would include fully funding the energy assistance program, making higher ed more affordable, scholarship funding for two year programs, and needs-based scholarships for Tribal colleges. Other funding would include technicians for the forensic lab, a meat inspector, and settling a long-standing lawsuit. The Build Montana Program and Made in Montana Program would be restored and funding increased. Funding was proposed for economic development on Indian reservations and would be divided by the seven reservations. The job training credit program was currently scheduled to be funded with an INTERCAP

program. That is a Unicap loan program and is not really appropriate to fund programs that have tax monies from the state of Montana without a 2/3 vote. The Legislative Auditor had called into question the appropriateness of using INTERCAP for those kinds of projects. The executive proposed using general fund money for the job training program. There were five active companies seeking training money. Under current law that would be paid for from the state of Montana through the Governor's office and the increased wages would be tracked through the Department of Revenue. **Mr. Ewer** described that as cumbersome and agreed with **Scott Seacat, Legislative Auditor**, about the legalities involved. An increase in assistance for families on temporary assistance (TANF) was proposed and they concurred with the Martz budget on that. They also concurred with **Governor Martz, Budget Director Chuck Swysgood, and Clayton Schenck, Legislative Services**, on the need for an ending fund balance and proposed an \$80 million fund balance. The new administration did not think a rainy day fund necessary but favored maximizing flexibility at all times with the fund balance. They suggested pushing some of the one-time expenditures into 2005 because of the spending cap issue in 2007, including the original Crow Tribe settlement and the Highway Patrol suit. It was recommended that the Legislature clarify the expenditure limit law. For the Judiciary, they were proposing to make permanent the \$10 per page filing fee tax on filed documents for information technology. The money would go into the general fund and in return for that the Judiciary would not have to argue from a zero-based budget concept every two years. Making the court information technology system better may translate in savings to DPHHS, **Mr. Ewer** argued. They proposed beefing up the staff at the Department of Revenue. There are significant accounts receivable and some corporate loopholes to address. Regarding the tobacco monies, he encouraged the committee members to study the chart on page 19 of Exhibit 1.

#### Questions from the Committee:

**SEN. CORY STAPLETON** asked if **Mr. Ewer** suggested the Legislature find ways around the spending cap or if was **Mr. Ewer's** position that he would rather not be restrained by the spending cap. **Mr. Ewer** responded the law is the law and they needed to comply with the law. They suggested some ways to modify the law. The budget staff looked at some accounting changes to satisfy the law but chose not to go that route. There were two possible recommendations, including how to treat bonded indebtedness for Department of Transportation bonds that have been authorized and redefining or modifying the statute to address the original spirit of the law which may not have included citizen initiatives. He didn't know the intention of the spending cap

law in 1981 and if it included any testimony about anything the people did by initiative. His guess was it did not; he thought a clarification was in order, in view of the Supreme Court ruling on K-12 education.

**SEN. JOHN ESP** referred to the chart on page 19 and asked about funding prescription drugs for mental health services. **Mr. Ewer** replied it was through Medicaid PR and Services. **SEN. ESP** inquired about decision package 3202 and if they had considered individual tax credits for health insurance. **Mr. Ewer** advised he had not been central to the design of what was proposed. He looked at the draft bills and the current plan was a combination of tax credits for small businesses. Individuals had not been identified in the bill. **SEN. ESP** asked about NP 3002, the mental health services decision package. It said funds would be used in the HIFA waiver program. He wondered if the funds would be put into the pot to leverage more money. **Mr. Ewer** replied regarding the Medicaid redesign, the HIFA waiver, the leveraging of certain pots for more Medicaid services--part of that included some targeted monies from I-149 to increase Medicaid services. This is the source of money they've identified as part of Medicaid redesign. Without it they don't have other monies identified at this time. **Sen Esp.** expressed concern about a plan B if they don't get the waiver to take care of funds for mental health or folks would be on the street without their medications. He was concerned whether the \$6.5 million needed over the biennium was available somewhere as a backup to this plan. **Mr. Ewer** looked forward to the Legislature working on those problems and having those priorities met.

**REP. CHRISTINE KAUFMANN** referred to page 19 and the chart for revenue from I-149. She was aware there had been a meeting to talk about how those funds should be distributed and asked how the chart compared to any recommendations that have come from that committee, or if the committee had not reached any agreement. **Mr. Ewer** advised there had been some meetings with the I-149 group known as the Alliance.

**{Tape: 1; Side: B}**

They did not come to an agreement as to the split of the monies for the reason that everybody wanted more. If they get prevention right and tax revenues go down, they want to have sustainability. **REP. KAUFMANN** asked about the four things the voters said they wanted funded and wondered if the budget office added to the voter's wishes on that. **Mr. Ewer** maintained sustaining Medicaid and enhancing Medicaid through the HIFA waiver that **SEN. ESP** referred to is a legitimate use of I-149 money and that was the reason for the five boxes.

**SEN. JOHN COBB** asked about limitations of the spending cap. He noted **Mr. Ewer** had until January 7th to present a final budget and wondered if they would have any extra spending authorities. **Mr. Ewer** replied yes and **SEN. COBB** asked what they were. **Mr. Ewer** advised the pay plan was in negotiations and there were other areas being considered. **SEN. COBB** referred to the recommendations for increased spending in the fire audit. The Forestry Division brought in a figure of \$800,000 a year to prepare for fires. He wondered if that had been brought to **Mr. Ewer**. **Mr. Ewer** replied it had not and that it is not in the Schweitzer budget. **SEN. COBB** inquired about the recommendations regarding the spending cap and about bills. He expressed concern about waiting until the last week of the session because it takes 2/3 vote unless the bill is in early. He asked if there would be negotiations between both political parties and the Governor's office about how to get around spending caps. **Mr. Ewer** advised this is their introductory foray and they have no legislation or placeholders for this. **SEN. COBB** again expressed concern about a wreck at the end and hoped this would be resolved in the next month or so.

**REP. JOEY JAYNE** asked about the Crow settlement and whether there had been consultation with the Crow Tribe. **Mr. Ewer** advised there was an agreement with the Crow Tribe. They were currently on a payment already and this simply expedited it by putting it into an escrow fund. An escrow fund is a kind of bank account and the money is only available when contractual conditions are met. The money will sit there and the Crow Nation will not have access to that money until all conditions are met. It was his understanding that part of those conditions had to do with federal governmental concurrence. As opposed to annual payout, they are proposing to expedite it and put the money up front. There was more one-time only money available currently than there was ongoing revenue, so **Director Swysgood** thought this would be a good use of money and it freed up revenue downstream. He indicated it was a rather generous offer because that escrow earns interest. They are giving the present value up front as opposed to payments down the road.

**SEN. DON RYAN** questioned putting money into private colleges and wondered if any of the staff reviewed if this would put the Board of Regents in a position to start an authority over them, because money would move to the Tribal colleges from the state. **Mr. Ewer** advised he hadn't thought it through as far as the relationship with the Board of Regents and accountability and Tribal colleges. It had not been a concern he had heard. He said he would be eager to hear **SEN. RYAN'S** thoughts at a later time.

**SEN. GREG BARKUS** asked about the budget recommendations by the Governor in terms of the 2005 year. He wondered if it was rather unique, for an incoming Governor to apply appropriations to an outgoing Governor's budget. **Mr. Ewer** did not know if it was unique as he had not been budget director before and had not really focused on other budgets in the past. He observed that it was routine to have supplementals and there is a standing placeholder bill, HB 3. Because of the phenomena of the expenditure cap that was discovered in December, the Martz administration and **Mr. Swysgood** moved significant one-time expenditures into 2005 as well. Supplementals were a common fact of government, he indicated. **SEN. BARKUS** asked about the spending cap and noted the generally recognized interpretation of the law was one that government should not grow any faster than the economy of the state. He wondered if it was the Governor's position that it should grow faster and that they should be spending at a faster pace than the economy is growing. **Mr. Ewer** advised their position was that the people of Montana should decide a level of goods and services that their government should provide and what they are willing to pay for, and that is their job in the Legislature and in the Executive. If they want to make a ceiling that has no flexibility, that is absolutely their right but if they want to say that there will be a certain level of goods and services and they want to tax themselves that is their right as well. He thought it was more complicated than that because not only were there discretionary matters, there were mandatory matters. One of those mandatory requirements was Medicaid. He thought they all realized that 90% of what they do here is for public safety, public health, and education.

**SEN. DAN WEINBURG** asked about "getting prevention right" and if there is data that substantiates that getting it right really does bring revenues down. He wondered if there was data from other states that this was actually effective. **Mr. Ewer** indicated he didn't know about the intricacies of prevention programs. One of the things Montana had done was to get the price of tobacco high; young people can't afford it. He cited better enforcement and compliance. Montana will have the fourth highest tobacco taxes in the nation. The people of Montana at least three times have said they were concerned about tobacco and wanted good prevention. I-146 authorized 33% of tobacco trust monies for prevention and the Schweitzer administration proposed that kind of level of prevention. If \$7 million a year was spent on prevention they needed to get it right. He offered that the details would be worked on by the department, the cancer prevention people, etc. **SEN. WEINBURG** wondered if they considered joining the tobacco prevention programs with the other prevention programs as a way to economize and for efficiency, or as a uniquely separate endeavor. **Mr. Ewer** did not see it as a

separate endeavor. He stated there is an unbelievable problem with methamphetamine and they've got to find a way to prevent people from taking that. He hoped if they can be successful with one problem that it can be applied to other problems such as meth.

**SEN. DON RYAN** asked about the spending caps and referred to HB 124 that was passed in the 2001 session, which didn't grow state government but took local revenues from gambling and license fees and developed a reimbursement system. He didn't think that was growing government but was an accounting method. They didn't create \$160 million of new services in HB 124. He asked if it was correct that counts as a growth in government according to the statute. **Mr. Ewer** advised that could be the interpretation of the law, but whether that was the spirit of the law he didn't know.

**SEN. ESP** referred to the appendix of the proposed budget and the elimination of the Mental Health Ombudsman program in the Martz budget because of the problem with the federal funds. He thought they should consider replacing those. He commented in relation to **SEN. RYAN'S** comment that the HB 124 monies were in last time and are in this time and he didn't think they grew that much. He didn't think they would be contributing to the growth in government over this biennium.

**REP. JOHN SINRUD** commented there was a campaign issue concerning \$60 million in savings from government waste. He wondered if **Mr. Ewer** had found any government waste in the current budget. **Mr. Ewer** said he was not sure he would characterize it as waste. There clearly had been programs that, had they been caught early, they would have redirected the funding or gotten the program right. An example was POINTS. Their pledge was to be alert and proactive to try to ensure that every dollar is spent efficiently and economically. He indicated he had not personally found any. **REP. SINRUD** asked if **Mr. Ewer** had found any efficiencies in government that can take place to spend money more efficiently. **Mr. Ewer** referred to the legal issue with the INTERCAP monies. \$86 million in bonds gets re-marketed every year. The current scheme with job credits would not pass muster with Wall Street. They will suggest to the Legislature that general fund money be used so there is a real job training program funded with real money. That is more than just an efficiency, that is a legality. That is to get something right. **REP. SINRUD** asked if they are looking at \$86 million out of the general fund. **Mr. Ewer** clarified that about \$9.8 million in job credit was identified to be used for the job training program from an \$9.8 million INTERCAP loan. He thought it worth repeating that the scheme would not pass muster; the INTERCAP program would make a loan to

the Governor's office for the job training program and the idea would be the state of Montana would track this amorphous increase in the salary and wage value of these people. The Department of Revenue would then certify that there is this increment of tax monies the state would get anyway that would be peeled off for the general fund and then used to pay the INTERCAP loan. That doesn't pass muster with traditional general obligation bonds and it did not get a 2/3 vote. He advised they need to fix that. He thought the INTERCAP ought to be kept as a municipal loan program as originally designed. The INTERCAP program was authorized under the Municipal Finance Consolidation Act.

**SEN. KEITH BALES** advised there had been some concern about water rights getting filed within the state and it had been going on since the Constitution was put in place in the 1970s. Part of the problem was a lack of money to get that done and there was a proposal to tax some of the water rights. His thought was to use some of the one-time money to help expedite that process. **Mr. Ewer** advised they were proposing \$1 million a year one-time available money for water adjudication. He acknowledged he didn't know much about this problem but it was one of the first problems he heard about after the election. He didn't know if money by itself would help. He said he would know more when he attends the hearings on this issue. **SEN. BALES** advised the previous day it was stated there were differences in the revenue between the legislative and the executive and the stated \$80 million ending fund balance. He asked for a brief overview. **Mr. Ewer** advised the budget office thinks an \$80 million fund balance was prudent and they would encourage the Legislature to have a fund balance on that order. **{Tape: 2; Side: A}** He didn't think the differences were significant and most of the differences were in income tax revenue. An analysis was provided to the Joint Committee members.

#### **EXHIBIT (fcs02a02)**

**SEN. STAPLETON** advised he was on the Audit Committee in the interim and a lot of the good work the Schweitzer administration was endorsing was part of what the committee worked on, and he expressed appreciation for that. On the INTERCAP loan issue, the committee debated going back to the Legislature for a 2/3 vote and legitimately bond it forward. He questioned the use of the general fund considering the spending cap issue. **Mr. Ewer** advised they proposed a three-part solution to the INTERCAP problem. This consisted of two bills. The first bill would validate INTERCAP loans that are out there that should be validated. There is a current loan to Justice for motor vehicle registration. While that got a 2/3 vote he thought it prudent as **Mr. Seacat** had suggested to identify that up front with the

Legislature. Going forward, the Audit Committee and the administration agree to clarify that if INTERCAP is to be contemplated and involve repayments from the state that involve tax payments, that it would need the 2/3. The first INTERCAP loan made of any size was for the motor pool. That is not state debt. People in the state government have a choice; its an enterprise fund. If the motor pool doesn't provide a good value, departments are not required to use it. The bill would validate the existing loans and clarify going forward. The third part would be for those INTERCAP loans they feel are inappropriate, such as the job training program, that a funding source be substituted that they think is legitimate. He didn't see any connection to the spending cap. **SEN. STAPLETON** advised caution, from the point of view of fiscal conservatives, about finding ways of getting around a statute on the first day. He was familiar with the POINTS issue. If it was bonded they would only be spending \$2 million or \$3 million a year paying forward. This might allow funding education without having to go around the law or shell game the intent of law. **Mr. Ewer** advised he had a very classic view of debt. It had been his field of expertise since 1981. He thought debt was appropriate when there were benefits that continued to accrue to the public. It is alright to have debt so that people years forward pay for those services and pay for that debt service. He didn't support the idea of borrowing money for expenses for prior benefits and have citizens have to pay for it down the road. California is using debt for current operations and that has to catch up with them. Back in the 1960s they thought that training policemen in New York City was a capital expenditure. That doesn't work with Wall Street very well. Debt is typically bricks and mortar or benefits that will accrue downstream, according to **Mr. Ewer**. **SEN. STAPLETON** hoped they could find common ground on how to restrain the growth over the next two years. He didn't think the Supreme Court decision was clear. He thought they should be deliberate and do this in a way that everybody's happy. He maintained there were the same number of taxpayers under the same personal income and they should find a way to work with that.

**SEN. COBB** asked **Mr. Ewer** if the public defender program was in their recommendations. This would be \$3 million to \$4 million in the biennium. **Mr. Ewer** advised not. He acknowledged a list of issues that were worrisome and that issue was a tier A worry because it was an entitlement. There would be a \$5.6 million supplemental and he wanted to be at that committee hearing. **SEN. COBB** warned the public defender program would continue in the future and that would be extra money too. **Mr. Ewer** responded they had several examples where money was spent in the field and then Helena had to pay for it. An example was district court assumption. He advised control and accountability were needed in

the same place. He acknowledged the concern. **SEN. COBB** advised it would be good to have specific goals in bills for jobs and economic vitality programs. He said he would rather have the Governor fail trying a specific goal than to just create new programs. His concern was that there wouldn't be new taxes for awhile and unless the economy grows faster there is a wreck coming down in the future. He would rather spend money sooner with specific goals. **Mr. Ewer** agreed they would need specifics. He said they have an energized chief executive and an opportunity to fund economic development. **SEN. COBB** advised his concern was to do this now and not wait for two years. **Mr. Ewer** indicated they were not inclined to wait for two years.

**CHAIRMAN COONEY** declared a 10 minute recess. He indicated the House members would attend their party caucus at 10:00 a.m.

**John Moe, Legislative Fiscal Division**, presented Global Fiscal Issues: Legislative Finance Committee Recommendations to the 2005 Legislature. The 1997 Legislature added the requirement to the LFC duties to prepare recommendations to House Appropriations and the Senate Finance and Claims Committee. The Legislative Finance Committee met on November 16th and adopted these seven recommendations. Members of that committee included **SEN. KEITH BALES, REP. ROSIE BUZZAS, SEN. RICK LIABLE, SEN. JOHN BRUEGGEMAN** and **REP. MONICA LINDEEN**.

**EXHIBIT(fcs02a03)**

*{Tape: 2; Side: B}*

**Mr. Moe's** presentation continued.

*{Tape: 2; Side: B; Approx. Time Counter: 0 - 6.3}*

**CHAIRMAN COONEY** announced the House members would leave about 10:00 to attend their party caucus. He indicated the Senate would stay, continue discussion, and perhaps vote on global issues. The House members would deal with them later on. If there was disagreement they would come back together as a joint committee to discuss those disagreements.

**Questions from the Committee:**

**SEN. BOB HAWKS** asked about the historic rate of turnover of state employees, if it had changed over time, and if retraining costs were factored in. He wondered about the difference between the 4% vacancy savings and natural turnover. **Mr. Moe** didn't know if there was really an historic turnover rate because there was such a variation between agencies and between years. The vacancy

savings rate of 4% had been in place for three sessions and it had worked. He acknowledged it created hardships on some agencies in terms of having to leave positions open. In terms of training costs, it is an item that is built into various agency budgets. **SEN. HAWKS** advised he was looking for some sense of change in rate of turnover which might be creating higher costs. **Taryn Purdy, Legislative Fiscal Division**, advised one of the things that impacts the level of turnover is decisions by the Legislature. Many things influence that turnover rate, including the level of vacancy savings that the Legislature applies. Issues such as agencies keeping positions open or not and the pay plan impact the turnover rate so it is difficult to tell what is a natural turnover rate and what is the enforced turnover rate. **Mr. Moe** advised if there were increased costs for training new employees as a result of vacancy savings he had never heard it brought up.

**REP. EVE FRANKLIN** addressed newer members regarding the issue of whether vacancy savings work; it works on paper but the reality of how it affects the work of the agency was another thing. As policy makers they run into a different set of issues than fiscal analysts or accountants. She concurred with **Mr. Moe** about the different effects on different agencies. There were consequences if the mission of an agency was not being accomplished. **CHAIRMAN COONEY** advised the **Legislative Audit Committee** did an audit which he sent to all members of the **Senate Finance Committee** regarding vacancy savings. He thought it was a good document that explained some of the pros and cons and he encouraged **House Appropriations** members, whoever they ended up being, to get a copy of that audit and read it. **Mr. Schenck** advised there was probably a natural vacancy that occurs but the issue was it was not consistent amongst the agencies. He pointed out one of the ways it was dealt with was the contingency fund that was provided to the Governor's office so if there was an agency that could meet the vacancy savings because they didn't have them, the Governor's office could allocate money to make that up.

**SEN. COBB** asked how much was in the contingency fund this session and the **Mr. Schenck** replied \$6 million. **SEN. COBB** asked how much general fund and **Amy Sessano** replied \$1.5 million. **SEN. COBB** said his concern was 4% vacancy savings didn't work with Corrections with the prison guards or with Human Services with the institutions. His concern was with 24 hour services and the Highway Patrol was the same issue. He asked whether vacancy savings would be applied to agencies with under twenty FTE. **Mr. Schenck** advised the Executive's budget as written excluded agencies with under 20 FTE.

**SEN. LIABLE** advised one of the things that bothered him in the past in regards to the present law adjustments was they just get a number. He wondered if there was any way to know how they get to that number. He asked within the budget for personal services if the 3% increase in wages and salaries for state employees was included within the budget for personal services and with the negotiations with the various labor unions with the Governor's office, what would happen with those. He wondered if that would become a decision package later on or just a bill. **Mr. Moe** said he had done some research and calculations to determine the magnitude of different components of present law adjustments where the focus was on personal services. He said he could share that with the committee. He thought there were individual agencies that had done that as well. He thought they could put something together for the subcommittees that would explain those magnitudes. **SEN. LAIBLE** indicated that would be most helpful. **Mr. Moe** advised in the pay plan that was calculated by the Governor's office they included vacancy savings. The 3% was applied but then was reduced by the vacancy savings percent. **SEN. LAIBLE** asked about expected results and what was hoped to be accomplished with the addition of FTE. He wondered how long these vacancies have been open. He thought that information would be helpful to the committees as well.

**SEN. JON TESTER** asked if there had been any analysis of overtime as it related to vacancy savings and the use of private contractors to get around the vacancy savings. **Mr. Moe** advised he was not aware of any. Overtime was a separate line item and vacancy savings was not applied to overtime. It is a zero based item and is calculated for each biennium. **SEN. TESTER** asked if overtime was wide open to the employees. **Mr. Moe** said not wide open because the agencies use it as a tool to deliver services when they have a shortage of personnel. **SEN. TESTER** advised he brought this up because when the subcommittees start doing their work that might be some of the work they need to do to determine how much overtime these agencies have and why.

**SEN. TRUDY SCHMIDT** asked **Pat Gervais, Legislative Fiscal Division**, about the response to **SEN. LAIBLE'S** question and asked her to elaborate on that. **Ms. Gervais** referred to the personal services box for the **Department of Public Health and Human Services**; they increased about \$12 million to \$13 million for the biennium just for present law adjustments. However in the total personal services budget of \$114 million, \$1.4 million would equal 1%. By the time there was a 4% vacancy savings rate plus the 1% across the board general fund reduction in personal services that was instituted by the last Legislature, combined with additional vacancies and pay plan changes, there was less than a 6% per year increase. **Lois Steinbeck, Legislative Fiscal**

**Division**, advised state institutions routinely incur overtime, holidays paid, and holidays worked and that is taken out of base budget expenditures. When agencies request present law adjustments, prison guard overtime, and holidays worked, it is put back in and there is no comparable expenditure in the base because it is removed. In a 24/7 you will always incur those costs and they are not reflected in the base budget, she declared. She asked if that helped **SEN. LAIBLE** understand the \$6 million annually in the present law adjustments in DPHHS. **SEN. LAIBLE** said it helped but commented it would be helpful for the committees, not to require that they match penny for penny, but at least have some broad-based idea of how we got to the present law adjustment. He didn't mean to imply the present law adjustment was excessive but meant to say it has some magnitude; if you add up all the present law adjustments through every agency within state government it is a significant amount of money. He knew the agencies provided a list of anticipated present law adjustments and would have to have some idea of how they got to that total at the end. **Ms. Steinbeck** indicated in institutions in DPHHS, positions are held open to meet vacancy savings requirements which impacts overtime, holidays, etc. and the state hospital has an aggregate FTE as a management technique. They call in workers and that reduces overtime. At DPHHS they hired consultants to do work in place of FTE that they left vacant. She advised she was not saying vacancy savings were good or bad but was saying there were instances that supported some of the observations that had been made.

**SEN. ESP** commented the Legislative Auditor's report and analysis addressed some of the issues that **SEN. LAIBLE** asked, as well as the question **SEN. TESTER** asked about the length of time of some of the positions and how it affected overtime and contract labor.

*{Tape: 3; Side: A}*

**Motion/Vote:** **SEN. COBB** moved that **THE LFC RECOMMENDATION:** Direct the subcommittees to adopt the abase budget and the statewide present law adjustments as the starting point of budget deliberations for each agency **BE ADOPTED**. Motion carried unanimously.

**Motion/Vote:** **SEN. BALES** moved that **LFC RECOMMENDATION:** Specify the actual FTE, and allow the legislative budgeting system to calculate the total addition or reduction in funding for that specific FTE **BE ADOPTED**. Motion carried unanimously.

**Motion:** **SEN. TESTER** moved that **LFC RECOMMENDATION:** The full appropriations committees shall adopt a global recommended level

**of personal services reductions (vacancy savings). Subcommittees will be requested to adopt the recommended level as part of their budget recommendation BE ADOPTED.**

**SEN. TESTER** advised with this motion he strongly encouraged the subcommittees, when they are applying these vacancy savings, to take a look at overtime and what private contractors do and then take a look at the reality of the world. In some cases with vacancy savings, it appeared to him that it could cost them money but he thought it was best to start low and add to it and that was why he was recommending this motion.

**Discussion:**

**SEN. ESP** asked if the motion would apply to institutions and everything across the board. **SEN. TESTER** advised it would be across the board just as the Governor's budget was. He indicated **SEN. COBB'S** statements had merit. It was important to look at agencies on an individual basis because they all have individual needs to make sure they aren't stepping over dollars to pick up dimes.

**SEN. COBB** thought the Human Services subcommittee could look at those institutions on what it actually costs to run and what it costs for positions. He thought they could reduce some of the overtime. He said he would support the motion to get it started and for the committee to look at institutions, including Corrections. Hopefully they could reduce the contingency fund because if they fund it up front there would be no need for a big contingency fund at the end.

**CHAIRMAN COONEY** asked if the motion also included the exceptions in the executive proposal. **SEN. TESTER** said that was correct.

**Vote:** Motion carried 17-2 by voice vote with **COONEY** and **ESP** voting no.

**CHAIRMAN COONEY** asked if there was a motion for LFC Recommendation 4 on page 4.

**Motion/Vote:** **SEN. BALES** moved that **LFC RECOMMENDATION:** If the full committee wishes to vary from the executive budget proposal inflation/deflation factors, it should establish approved inflation/deflation rates (if any) by individual object of expenditure and direct subcommittees to apply these rates to all budget adjustment recommendations **BE ADOPTED.** Motion carried unanimously.

**CHAIRMAN COONEY** asked if there was a motion for LFC Recommendation 5 on page 5.

**Motion/Vote:** **SEN. LAIBLE** moved that **LFC RECOMMENDATION:** If the full committee wishes to vary from the executive budget proposal inflation/deflation factors, it should establish approved inflation/deflation rates (if any) by individual object of expenditure and direct subcommittees to apply these rates to all budget adjustment recommendations **BE ADOPTED.** Motion carried unanimously.

**Questions:**

**SEN. ESP** asked **Mr. Schenck** why they would want to bury the inflation/deflation figures. **Mr. Schenck** was not sure they would want to bury them unless there was a reason they wanted to allow one agency some preference in terms of what they are. Present law says the cost of continuing existing services says caseload, etc., and also says inflation. Inflation is one of the items that by statute should be included in present law. They really don't do that in the way they prepare these budgets. They do it on a very select few items. They do it for consistency purposes. Their system calculates the inflation so when a committee makes a motion to increase or decrease something the system then adds or takes away the inflation or deflation factor. So as a matter of consistency as well as system efficiency, he didn't think the Legislature ever varied from the inflation rates that are established by the executive. **SEN. ESP** said the motion said they would establish rates for individual objects of expenditure and he asked for an example.

**CHAIRMAN COONEY** advised that it had been called to his attention by **SEN. BALES** that **SEN. BALES** actually already read the motion that was currently being discussed and they voted on it thinking they were voting on fixed costs. He said they would have to go back and take care of both motions again. He said they would continue on the motion made by **SEN. LAIBLE** on inflation and deflation and then they would go back to the recommendation on fixed costs. He apologized for the confusion.

**Mr. Moe**, in reply to **SEN. ESP'S** question, stated natural gas costs was a good example of one that had a significant inflationary increase. That would be an expenditure item in a long list of different expenditure items. He indicated the reason they might want to vary from the executive was the executive establishes what these inflation rates are, based on their analysis. If someone made the case that what the executive chose to use as an inflation factor wasn't high enough, then they might want to change it to something higher. **SEN. ESP** indicated

it could be a function of timing if something had changed in the last few months that wasn't available to the executive when they were developing their budget.

**Vote:** Motion carried unanimously.

**Motion/Vote:** SEN. BALES moved that LFC RECOMMENDATION: Direct subcommittees to consistently apply fixed costs in agency budgets as included by the executive budget request. Adjustments to fixed cost rates shall be determined by the subcommittee examining the service provider (e.g., ITSD costs as reviewed by the General Government Subcommittee) and shall be globally adjusted on a consistent basis BE ADOPTED. Motion carried unanimously.

CHAIRMAN COONEY advised they would move to issues related to HB2.

**Motion/Vote:** SEN. GALLUS moved that LFC RECOMMENDATION: Make no recommendation or adjustments to HB 2 until required legislation passes BE ADOPTED. Motion carried 18-1 by voice vote with ESP voting no.

**Motion/Vote:** SEN. BALES moved that LFC RECOMMENDATION: Appropriations committee leadership shall direct the appropriations subcommittees to include negative new proposals in the present law line item in the budget, as apposed to a separate negative line item appropriation BE ADOPTED. Motion carried unanimously.

CHAIRMAN COONEY expressed appreciation for the action taken by the Senate. He said the House would take the issues up when they were prepared to do so.

SEN. GALLUS asked about the procedure if the House had been there for the vote. CHAIRMAN COONEY advised each body votes individually at this meeting and votes are reported by Senate and by House. Last time both the House and the Senate agreed on these issues. There was some disagreement between parties but there was agreement by the majority. Once the House takes the issues up, he believed the issues would be disposed of. If there was any disagreement on any of these issues then another joint meeting would be called to discuss and resolve those differences.

The meeting ended with a discussion on scheduling.

**ADJOURNMENT**

Adjournment: 10:35 A.M.

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SEN. MIKE COONEY, Chairman

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Prudence Gildroy, Secretary

MC/PG

Additional Exhibits:

**EXHIBIT ([fcs02aad0.PDF](#))**